



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Jesse O. Schneringer, D.C.

Respondent Name

American Zurich Insurance Company

MFDR Tracking Number

M4-17-1628-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 30, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "I originally sent the medical records and billing on 05/18/2016 ... I did not receive an EOB in a timely manner and the same information with proof of timely filing, was resubmitted on 08/31/2016."

Amount in Dispute: \$1,150.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 11, 2016	Designated Doctor Examination	\$1,150.00	\$1,150.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
- 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services from March 1, 2008 until September 1, 2016.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 29 – The time limit for filing has expired.

Issues

1. Did American Zurich Insurance Company (Zurich) respond to the medical fee dispute?
2. Did Jesse O. Schneringer, D.C. submit a medical bill for the services in question in accordance with 28 Texas Administrative Code §133.20?
3. Is Dr. Schneringer entitled to reimbursement for the services in question? If so, what is the reimbursement amount?

Findings

1. The Austin carrier representative for Zurich is Flahive, Ogden & Latson. Flahive, Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on February 7, 2017.

28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
- (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of Zurich from Flahive, Ogden & Latson to date. The division concludes that Zurich failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

2. Dr. Schneringer is seeking reimbursement for a designated doctor examination to determine maximum medical improvement, impairment rating, and the extent of the compensable injury. Dr. Schneringer billed for these services with procedure codes 99456-W5, 99456-W5-WP, and 99456-W6-RE.

Zurich denied the disputed services with claim adjustment reason code 29 – “THE TIME LIMIT FOR FILING HAS EXPIRED.” 28 Texas Administrative Code §133.20(b) requires that “Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided ...”

Review of the submitted information finds a fax confirmation page supporting that a medical bill for the services in question were submitted to the insurance carrier on May 18, 2016. The insurance carrier’s denial reason is not supported. The division concludes that Dr. Schneringer submitted a medical bill for the services in question in accordance with 28 Texas Administrative Code §133.20.

3. Because Zurich failed to support the denial reason presented to Dr. Schneringer prior to medical fee dispute and failed to raise any additional defenses, the division finds that Dr. Schneringer is eligible for reimbursement of the services in question.

Per 28 Texas Administrative Code §134.204(j)(3), “The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350.” The submitted documentation supports that Dr. Schneringer performed an evaluation of maximum medical improvement. Therefore, the reimbursement for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204(j)(4), “The following applies for billing and reimbursement of an IR evaluation. ... (C)(ii) The MAR for musculoskeletal body areas shall be as follows. ... (II) If full physical evaluation, with range of motion, is performed: (-a-) \$300 for the first musculoskeletal body area.” The submitted documentation supports that Dr. Schneringer provided an impairment rating, which included a musculoskeletal body part, and performed a full physical evaluation with range of motion of the spine. Therefore, the reimbursement for this examination is \$300.00.

Per 28 Texas Administrative Code §134.204(k),

The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC)

Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports...

The submitted documentation indicates that Dr. Schneringer performed an examination to determine the extent of the compensable injury. Therefore, the reimbursement for this examination is \$500.00.

The total reimbursement for the services in question is \$1,150.00. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,150.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,150.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	April 14, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.